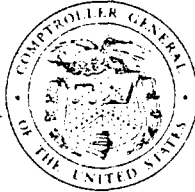


**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

61015  
98410

FILE: B-186379

DATE: June 22, 1976

MATTER OF: Dumont Oscilloscope Laboratories, Inc.

**DIGEST:**

Since protester does not advance any additional facts or legal arguments which show that earlier decision was erroneous, prior decision holding protest untimely is affirmed. Further, protest will not be considered under section 20.2(c) of our Bid Protest Procedures, as matter does not involve significant principle of widespread procurement interest nor has good cause preventing timely filing been shown.

Dumont Oscilloscope Laboratories, Inc. (Dumont), has requested reconsideration of our decision of May 11, 1976, which declined to consider the merits of its protest as the protest was determined not to have been timely filed in our Office.

We found that while the initial protest of Dumont to the Air Force Logistics Command, Kelly Air Force Base, Texas, was timely filed, the subsequent protest to our Office was not filed (received) within 10 working days of initial adverse agency action. 40 Fed. Reg. 17979 (1975). Dumont requests reconsideration on the grounds that it did not receive a complete copy of the adverse agency decision until April 19, 1976, and first became aware of the content of the missing portion verbally on April 16, 1976.

Dumont contends it should be allowed 10 working days from April 16, 1976, for filing and, therefore, its protest filed on April 21, 1976, was timely. Alternatively, Dumont seeks reconsideration under section 20.2(c) of our Bid Protest Procedures, which reads:

"The Comptroller General, for good cause shown, or where he determines that a protest raises issues significant to procurement practices or procedures, may consider any protest which is not filed timely."

The record indicates that on April 5, 1976, Dumont received a letter from the Air Force denying its protest. The letter included a copy of the Facts and Findings of the contracting officer. The enclosed

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statement had been reviewed and affirmed by the Directorate of Procurement and Production. On April 16, 1976, Dumont requested a copy of page 10 of the contracting officer's statement, alleging that the page was missing from its copy. On the same day, Dumont was orally advised of the contents of the missing page. A copy of the missing page was received by Dumont on April 19, 1976. In its protest to this Office, dated April 16, 1976, Dumont stated:

"Dumont is awaiting receipt of a missing portion of the reply to our protest to the Contracting Officer and is compiling detailed facts and arguments relative to the protest at hand. Upon receipt and examination we will furnish supplementary details."

The Facts and Findings of the contracting officer were forwarded with Dumont's additional statement in support of the initial protest.

As stated in our decision of May 11, 1976, when the protest has been initially filed with the contracting agency, any subsequent protest to this Office must be filed no later than 10 working days from formal notification of actual or constructive knowledge of initial adverse agency action. Dumont received notice of the denial of its protest on April 5, 1976. The question of the missing page was not raised by Dumont until April 16, 1976. On the same day Dumont mailed its protest to this Office. From a review of the information contained in the contracting officer's Facts and Findings, excluding page 10, we believe Dumont was sufficiently apprised of the grounds for its protest as a result of the April 5 letter from the Air Force. Accordingly, the date from which the filing time began to run in this case was April 5. Since the protest was not filed (received) in our Office until April 21, 1976, it is untimely.


As to what constitutes a significant issue, we stated in Fairchild Industries, Inc., B-184655, October 30, 1975, 75-2 CPD 264:

"It is our view that the use of the price evaluation formula in this particular procurement does not raise any issues significant to procurement practices or procedures. 'Issues significant to procurement practices or procedures' refers to the presence of a principle of widespread interest and not necessarily to the sum of money involved. 52 Comp. Gen. 20, 23 (1972). There have been instances in which our Office has determined that although a protest

was filed untimely, the issue presented was significant to the entire procurement community and therefore was considered on the merits. See, for example, Fiber Materials, Inc., 54 Comp. Gen. 735 (1975), 75-1 CPD 142, where in a research and development procurement individually tailored statements of work for the two offerors in the competitive range precluded one offeror from competing on an equal basis, contrary to the basic principles of the law and regulations governing the conduct of procurements; Willamette-Western Corporation; Pacific Towboat & Salvage Co., 54 Comp. Gen. 375 (1974), 74-2 CPD 259, where the release of a draft request for proposals to the incumbent contractor 5 months before other competitors received the official RFP resulted in partiality toward the incumbent to the prejudice of competitors, contrary to the concept implicit in negotiated procurements and statutory requirement for maximum competition; and 52 Comp. Gen. 905 (1973), where pursuant to the invitation for bids the addition of a \$1,000 evaluation factor (which equaled nearly 50 percent of the evaluated price) penalized all potential suppliers except the incumbent contractor, thereby precluding effective competition."

Basically, the protest challenges the propriety of the evaluation of bid samples. In our opinion, Dumont's protest does not contain the requisite level of widespread procurement interests, exemplified by the case cited above, that is significant to procurement practices or procedures. "Good cause" generally refers to some compelling reason, beyond the protester's control, which has prevented him from filing a timely protest. 52 Comp. Gen. 20, 23, supra. Dumont has not presented any supervening circumstances which delayed the filing of its protest to this Office.

Accordingly, our decision that the protest is untimely is affirmed.

  
Deputy Comptroller General  
of the United States